

## REMARKS

### **I. INTRODUCTION**

Claims 1-26 are pending. In view of the following remarks, it is respectfully submitted that all of the pending claims are allowable.

### **II. THE 35 U.S.C. § 103(a) REJECTIONS SHOULD BE WITHDRAWN**

The Examiner has rejected claims 1-26 under 35 U.S.C. § 103(a) as unpatentable over U.S. Pat. No. 6,578,012 B1 to Storey ("the Storey patent") in view of U.S. Pat. No. 6,694,300 to Walker et al. ("the Walker patent"). (See 11/15/04 Office Action, p. 2).

The Storey patent describes an on-line, interactive incentive program. (See the Storey patent, col. 1, lines 63-65). A user accesses the incentive program by initially viewing a program homepage 300 which contains links to product pages of merchants participating in the incentive program. (Id. at col. 4, lines 1-16). When the user indicates a desire to purchase the product, a credit check routine 140 is executed, and, upon approval, a product order 160 is placed with the merchant of the product. (Id. at col. 5, lines 32-42). If the user is enrolled in the incentive program, award points are calculated based on the product and added to an account of the user. (Id. at col. 5, lines 45-55). After amassing points, the user may view an awards catalog via an award catalog homepage 400. (Id. at col. 7, lines 47-49). The user may redeem the points for awards, which are products from merchants participating in the incentive program. (Id. at col. 9, lines 51-61).

The Walker patent describes a system for providing supplementary product sales as a function of a purchase parameter at a point of sale ("POS") terminal. (See the Walker patent, Abstract). A merchant, by registering with a credit card issuer, can provide offers for

Abstract). A merchant, by registering with a credit card issuer, can provide offers for supplementary products ("upsells") at the POS terminal of other merchants. (Id. at col. 3, lines 18-39). Thus, when a customer uses the credit card at the POS terminal, a central controller connected thereto transmits an upsell product offer to the POS terminal. (Id. at col. 5, lines 14-25). The upsell product offer transmitted by the central controller depends upon the purchase parameter (e.g., product purchased, purchase price, date, time of day, etc.). (Id. at col. 5, lines 40-61). Depending on the type of upsell product offer and whether the customer accepts it, the central controller may credit/debit one or more financial accounts specific to the merchant, the customer and/or a further merchant (e.g., manufacturer of upsell product). (Id. at col. 8, lines 42-52).

Claim 1 of the present application recites a method for cross marketing products between a first company and a second company over an interconnected plurality of point-of-sale terminals and a server, wherein the method includes the steps of "calculating and recording an amount of cross-marketing revenue realized from the first purchase to a marketing fund account in the database" and "allocating at least a portion of the cross-marketing revenue in the fund to reimburse the second company for the discount." After completing the first purchase at the first company, a consumer is awarded a discount on a second product at the second company. The first company contributes a predetermined dollar amount to the marketing fund account which is used to reimburse the second company for the discount on the second product. (See Specification, p. 4, lines 1-5). As the Examiner has recognized, the Storey patent does not teach or suggest "calculating and recording an amount of cross-marketing revenue realized from the first purchase to a marketing fund account in the database" and "allocating at least a portion of the cross-marketing revenue in the fund to reimburse the second company for the discount." (See 11/15/2004 Office Action, p. 2). The Examiner attempts to cure this deficiency by suggesting that the Walker patent discloses these elements.

It is respectfully submitted that the Walker patent does not disclose or suggest "calculating and recording an amount of cross-marketing revenue realized from the first purchase

to a marketing fund account in the database” and “allocating at least a portion of the cross-marketing revenue in the fund to reimburse the second company for the discount,” as recited in claim 1. As noted above, the Walker patent describes providing the upsell product offer to the customer at the POS terminal of the merchant. When the customer indicates acceptance of the upsell product offer, the central controller adjusts financial accounts specific to the customer, the merchant at the POS terminal and/or the merchant of the upsell product. (See the Walker patent, col. 8, lines 42-52). Tables 210 (Fig. 8), 220 (Fig. 9) and 230 (Fig. 10) indicate the adjustments (e.g., credit/debit) to accounts identified by specific numbers. These accounts may be “credit card account[s] of the customer, the merchant controlling the [POS] terminal, or a merchant offering the accepted supplementary product.” (Id. at Abstract). The funds in these accounts are not intermingled, because there is no affiliation between the merchants. That is, the Walker patent clearly states, “[t]he present invention provides merchants with the ability to make sales through the POS terminals and stores of other merchants, without registering, associating or affiliating with any of those other merchants.” (Id. at col. 3, lines 7-11). Thus, for each acceptance of an upsell product offer, only entity-specific accounts are adjusted (e.g., one merchant account and one customer account). Therefore, the Walker patent does not disclose or suggest “calculating and recording an amount of cross-marketing revenue realized from the first purchase to a marketing fund account in the database” and “allocating at least a portion of the cross-marketing revenue in the fund to reimburse the second company for the discount,” as recited in claim 1. Therefore, the Walker patent, taken alone or in combination with the Storey patent, does not render the subject matter of claim 1 obvious.

It is respectfully submitted that claim 1 is not unpatentable over the Storey patent in view of the Walker patent for the reasons discussed above and that this rejection should be withdrawn. Because claims 2-12 depend from and, therefore, include all of the limitations of claim 1, it is respectfully submitted that these claims are also allowable.

Similar to claim 1, independent claim 13 is directed to a method for cross marketing products between a first company and a second company over an interconnected plurality of

electronic sales terminals and a server, wherein the method includes the step of "crediting an account of the consumer maintained at the server with the discount" and "wherein the amount of money deposited into the account is a predetermined percentage of revenue realized from the purchase of the first product." As noted above, neither the Storey patent nor the Walker patent, either alone or in combination discloses such an account. Therefore, it is respectfully submitted that claim 13 is allowable for the same reasons as discussed above with regard to claim 1, and that the rejection of this claim should be withdrawn. Because claim 14 depends from, and therefore includes all of the limitations of claim 13, it is respectfully submitted that this claim is allowable, as well.

Similar to claim 1, independent claim 17 recites a method for cross marketing products between a first company and a second company over an interconnected plurality of point-of-sale terminals and a server, wherein the method includes the step of "recording an amount of the cross-marketing revenue realized from at least the first purchase to a marketing fund account." As discussed above with regard to claim 1, neither the Storey patent nor the Walker patent, either alone or in combination discloses "a marketing fund account." Therefore, Applicants respectfully submit that claim 17 is allowable, and that the rejection of this claim should be withdrawn. Because claims 18-26 depend from, and therefore include all of the limitations of claim 17, it is respectfully submitted that these claims are allowable at least for the reasons stated above.

Independent claims 15 and 16 are each directed to "a method for cross marketing products between a *first department and a second department* at a company using an electronic sales terminal and a server." Applicants respectfully submit that neither the Storey patent nor the Walker patent, either alone or in combination, discloses or suggests a method for inter-department cross marketing within a company. The Storey patent is directed to an on-line award program which administers incentive programs for multiple companies. (See the Storey patent, col. 4, lines 1-16). The Walker patent teaches a system for providing supplementary product sales which is administered by a central controller that each merchant must register with to


patent nor the Walker patent discloses or suggests a method for intra-company marketing (i.e., between departments within the company). The Examiner has not pointed to any disclosure in either the Storey patent or the Walker patent that would suggest otherwise. Therefore, the Storey patent and the Walker patent, either alone or in combination, do not disclose or suggest "a method for cross marketing products between *a first department and a second department* at a company using an electronic sales terminal and a server," as recited in claims 15 and 16. Thus, Applicants respectfully submit that claims 15 and 16 are allowable, and that the rejections of these claims should be withdrawn.

### CONCLUSION

In light of the foregoing, Applicants respectfully submit that all of the pending claims are in condition for allowance. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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